



STATE OF ALABAMA

SURFACE MINING COMMISSION

P.O. BOX 2390 - JASPER, ALABAMA 35502-2390
(205) 221-4130 • FAX: (205) 221-5077

Permit Revision Number: R-34

REVISION TO PERMIT FOR SURFACE COAL MINING OPERATIONS

Pursuant to the Alabama Surface Mining Control and Reclamation Act, Act No. 81-435, and duly promulgated rules of the Commission, revision is hereby approved for permit:

P- 3233-01-23-P
Crimson Oak Grove Resources, LLC
8360 Taylors Ferry Road
Hueytown, AL 35023
(Concord Prep Plant)

License No.: L-877
Pursuant to the
Permit map: 1 of 1
Certified by: Jared P. Johnsey PE # 33239
Date: 2/10/2022

The permit is revised as follows:

1. Add 255 acres to Increment No. 7 for Slurry Impoundment No. 7, Sediment Basins 041 and 041A, borrow area, and ancillary access.
2. Modify the General Plan.
3. Modify the Hydrologic Monitoring Plan.

ACREAGE SUMMARY:

*INCREMENT #1: remains at	811 acres
*INCREMENT #2: remains at	72 acres
INCREMENT #3: remains at	24 acres
*INCREMENT #4: remains at	114 acres
*INCREMENT #7: increases to	255 acres

Total Acreage Increases to	1,276 Acres
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***Bonded To Date**

R-34 Permit Condition 1: The area added by Revision 34 is zoned I-3 with the exception of the area located within the NE/NE of Section 20, Township 18 South, Range 5 West, zoned A-1. The area zoned A-1 and the required 50 feet offset cannot be disturbed until approval from the Jefferson County Planning and Zoning Commission is submitted to the ASMC to change the area to I-3. Furthermore, the 50 feet offset of the area zoned A-1 must be flagged in the field to ensure no disturbance occurs until the zoning change has been approved.

R-34 Permit Condition 2: Prior to disturbance within the watershed of Slurry Impoundment No. 7 the detailed design plans for Slurry No. 7 must be submitted to and approved by the ASMC prior to construction. Also, MSHA approval of the detailed design plans will be required prior to ASMC approval.

R-34 Condition 3:

The permittee must complete tree removal by July 31, 2025. If tree removal is not completed by July 31, 2025 the permittee must submit FWS concurrence to ASMC prior to tree removal after the above mentioned date.

R-34 Finding 1: The Regulatory Authority has taken into account the effect of the proposed permitting action on properties listed or eligible for listing on the National Register of Historic Places. MRS Consultants, LLC

conducted a Phase I Cultural Resource Survey on September 27-30, & October 1, 12-15, 2021 for approximately 346 acres in Jefferson County, Alabama. As a result of these investigations, no evidence of archaeological resources or prior human occupation was found within the survey area. No cultural materials were identified during the shovel testing or surface investigations. Based on these findings, MRS recommends that the Slurry Pond No. 7 Project in Jefferson County, Alabama be cleared in regard cultural resources. By letter dated November 5, 2021, the Alabama Historical Commission (AHC) stated, upon review of the cultural resource assessment conducted for the project, AHC concurs with the author's finding the project activities will have no effect on cultural resources eligible for or listed on the National Register of Historical Places. Therefore, AHC concurs with the determination of no effect to historical properties. This finding is supported in part by inclusion of appropriate permit conditions or changes in the operation plan protecting historic resources, or a documented decision that the Regulatory Authority has determined that no additional protection measures are necessary. Concerns for unknown resources, which might be discovered during mining, have been made conditions of the permit.

R-34 Finding 2: In a letter dated February 12, 2021 the Alabama Department of Conservation and Natural Resources (ADCNR) suggested a biological survey be conducted by trained professionals for the project area. The closest sensitive species is recorded in the ADCNR database as occurring approximately 3.9 miles from the subject site. McGehee Engineering Corp (MEC) conducted a biological habitat assessment in July of 2020 for the area to be added by R-34. The project area consists of approximately 456 acres of previously disturbed and natural area. The area has been disturbed through previous gas well and access road activity and in silviculture practices. There is some natural area along the eastern boundary. There is no habitat for listed, threatened and endangered species and no evidence was found or observed for the presence or possible presence of listed species, with the exception of the approximately 42 acres of potential summer roosting habitat for the Indiana Bat (*Myotis sodalis*) and Northern Long-eared Bat (*Myotis Septentrionalis*)(NLEB). On July 27 – 31, 2020 MEC an Acoustic Presence/Absence Survey was conducted in accordance with the US Fish and Wildlife Service (FWS) approved plan. The findings of the Acoustic Presence/Absence Survey indicated the presence of the Indiana and NLEBs is **UNLIKELY** according to the acoustic survey in accordance with the 2020 Summer Survey Guidelines. By comments dated January 15, 2021, project number: 2020-TA-1218, the FWS acknowledges the permittee has determined probable absence of the Indiana & NLEBs. FWS accepts these findings and will acknowledge the survey is valid for five years from the date of completion of the survey unless new information suggests otherwise. By letter dated July 12, 2021, the US Army Corps of Engineers (USACE) Jurisdictional Determination (JD) - File Number SAM-2014-00943-CMS determined the subject property contains 212 linear feet of jurisdictional intermittent tributary (S-1b) and 0.05 acre of jurisdictional forested wetland (W-3). This approved JD is valid for a period of five years from the date of the USACE letter. Crimson Oak Grove Coal, LLC, Concord Prep Plant, P-3233 R-34 is avoiding all Waters of the United States (WOTUS) as indicated by the Jurisdictional Waters Map. The ASMC finds that the proposed operation will not jeopardize the continued existence of endangered or threatened species or critical habitat thereof.

All other terms and conditions remain in effect as well as all Findings in the original permit and any Findings appropriate for this revision.

EFFECTIVE DATE: April 26, 2022


Kathy H. Love, Director

/mw

cc: I & E, Permit File